**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**CIVIL APPLICATION NO.516 OF 2007**
**IN**
**FIRST APPEAL ST.NO.1287 OF 2007**

Madan P. Sakpal ...Applicant

vs.

Yogibabab Anand Nath & Ors. ...Respondents

Mr.Sanjay Kshirsagar for the Applicant
Mr.D.B.Sawant for the respondents.

**CORAM: A.S.OKA,J.**
**DATE : NOVEMBER 21,2007.**

**P.C.:**

1. Heard learned Advocate for the Applicant and the learned Advocate for the first Respondent. There is a delay of about 5 years in preferring the Appeal against the decree for specific performance passed in favour of the first Respondent. In the application it is asserted that the first Respondent-plaintiff is a Sadhu who has renounced the world and the relationship between the Applicant and the first Respondent was of Guru and disciple. Reliance is placed on compromise which allegedly took place between the Applicant and the first Respondent. In support of this application, the Applicant has filed Affidavits of one Ramesh Dhaetonde and three others in which it is stated that after the decree was passed there was a compromise between the Applicant and the first Respondent and pursuant to the compromise, the applicant

supplied bricks for constructing a temple which was being constructed at the instance of the first Respondent. In the said affidavits in support the details of the settlement have been mentioned.

2. A reply has been filed by the power of attorney holder of the first Respondent. The first Respondent has not come forward to deny the specific allegation of settlement between the Applicant and himself. The denial is by the constituted attorney of the first Respondent. It is not the case of the Applicant that the settlement was arrived at in presence of the said constituted attorney. There is no denial of the averment made that the first Respondent is a Sadhu. The only denial is of the fact that the applicant is a disciple of the first Respondent.

3. In view of the averments made in the application and the averments made in the Affidavits in support and considering the fact that there is no reply filed by the first Respondent, a case is made out for condonation of delay. Accordingly, is allowed in terms of prayer clause (a). Place the Appeal for admission 13th December 2007.

**JUDGE**